[redacted]

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1927

No. 394

THE UNITED STATES OF AMERICA

vs.

GLEN MURRAY

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT

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1 In United States Circuit Court of Appeals, Eighth Circuit

No. 7736

UNITED STATES OF AMERICA, PLAINTIFF IN ERROR vs. GLEN MURRAY, DEFENDANT IN ERROR	In error to the District Court of the United States for the District of Nebraska

A certain question of law has arisen on hearing of this cause in this court upon which the instruction of the Supreme Court is desired in order to properly decide the same.

Statement of facts

On October 22, 1926, in the District Court of the United States for the District of Nebraska, defendant in error plead guilty to certain violations of the national prohibition act. On October 25, 1926, he was sentenced under said plea of guilty to a term of three months imprisonment in the Douglas County jail at Omaha, Nebraska. On the 25th day of October, 1926, he was delivered by the United States marshal, in pursuance of said judgment and sentence, to the jail keeper, and on said date he commenced serving his sentence. On October 26, 1926, and during the same term of court, the court entered an order placing the defendant in error on probation, said order in part reading as follows:

"Ordered and adjudged, that said defendant, Glen Murray, be placed on probation for the period of two (2) years, under the personal supervision of Robert P. Samardick, who is hereby appointed and constituted probation officer in this case."

Defendant in error was thereupon released and placed in charge of said Robert P. Samardick.

2 It is the contention of the Government that probation could not be granted by the District Court after defendant in error commenced serving his sentence.

Question certified

Did the United States District Court for the District of Nebraska have authority under the act of March 4, 1925, 43 Stat. L., Chap. 521, page 1259, to make, during the term at which sentence was imposed, the order placing defendant in error upon probation after he had commenced to serve the sentence?

This question of law is by the United States Circuit Court of Appeals for the Eighth Circuit hereby certified to the Supreme Court

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in accordance with the provisions of section 239, United Stat
Judicial Code.

WM. S. KENYON,
United States Circuit Judge.
JOSEPH W. MOLYNEAUX,
United States District Judge.
JOHN B. SANBORN,
United States District Judge.

(The judges who sat in the Circuit Court of Appeals on the hea
ing of the case.)

3 [Clerk's certificate to foregoing omitted in printing.]

(Indorsement on cover:) File No. 32,846. U. S. Circuit Court o
Appeals, Eighth Circuit. Term No. 394. The United States o
America vs. Glen Murray. (Certificate.) Filed July 21, 1927. Fi
No. 32,846.

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